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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: January 25, 2017

+ CM(M) 699/2016 & C.M.Nos. 25915/2016 & 25917/2016

M/S HONDA CAR INDIA PVT LTD. Petitioner

Through: Mr. Jagdev Singh & Mr. A. Mishra,
Advocates

Versus

CHANDAR PAL SINGH & ORS. Respondents

Through: Mr. G.P. Thareja & Mr. Satyam Thareja,
Advocates for respondents No.1, 2 & 4
Mr. Pankaj Gupta, Advocate for
respondent No.6

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT
ORAL

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1. Petitioner is aggrieved by its impleadment by respondents-claimants.
2. Respondent No.3 is served through her father-in-law but none has appeared on her behalf. She is accordingly set *ex parte*.
3. Respondent No.5- owner is unserved with the report 'vacated'. Since the impugned order is on the application of respondent-claimant therefore, notice to respondent No.5 is dispensed with.

4. Impugned order of 4th December, 2015 directs impleadment of petitioner in the capacity of manufacturer of the vehicle involved in a road accident on an application filed by respondents-claimants. It is noted in the impugned order that whether the accident took place due to internal fault or manufacturing defect in the vehicle or whether the vehicle first overturned and thereafter, caught fire due to overturning, is a matter of evidence and since the road accident had taken place soon after delivery of the motor vehicle in question, therefore, the manufacturer is a necessary party to be impleaded.

5. Learned counsel for petitioner submits that so far as the report indicating that the vehicle in question had caught fire due to an internal fault cannot be the basis to summon petitioner, as there is no Mechanical Inspection Report of the vehicle in question on record.

6. Mr. G.P. Thareja, learned counsel for respondents No. 1, 2 & 4, support the impugned order and relies upon Sections 109, 165 and 175 of *The Motor Vehicles Act, 1988* to submit that the vehicle has to be roadworthy and since the vehicle in question had caught fire soon after its delivery due to internal defect, therefore, impleadment of petitioner is justified.

7. Upon hearing and on perusal of impugned order, I find that reliance placed upon provisions of Sections 109, 165 and 175 of *The Motor Vehicles Act, 1988* by learned counsel for respondents is of no avail for the reason that the Mechanical Inspection Report is not on record and there is no reference of it in the copy of Surveyor's Report of 24th November, 2005. In view thereof, impleadment of petitioner is wholly unjustified. However, it is made clear that if respondent-insurer is able to

place on record the Mechanical Inspection Report, then on an application, petitioner can be summoned, if so warranted and without being influenced by this order.

8. In view of the above, impugned order is set aside with clarification that in the event of Mechanical Inspection Report coming on record, concerned party would be at liberty to take steps to summon petitioner if such an occasion arises.

9. With aforesaid directions, this petition and applications are disposed of.

(SUNIL GAUR)
JUDGE

JANUARY 25, 2017

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